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LETTER DATED 6 NOVEMBER 1997 FROM THE PERMANENT REPRESENTATIVE OF FRANCE TO THE UNITED NATIONS ADDRESSED TO THE SECRETARY-GENERAL

I have the honour to transmit herewith the text of the letter addressed to the Minister for Foreign Affairs of France by Judge Jean-Louis Bruguière concerning the judicial inquiry conducted on the attack on the UTA DC-10 of 19 September 1989 (see annex).

I should be grateful if you would have this letter circulated as a document of the Security Council, in connection with the latter's consultations of the whole on the Libyan Arab Jamahiriya.

(Signed) Alain DEJAMMET
Permanent Representative of France
to the United Nations

Annex

Letter addressed to the Minister for Foreign Affairs of France by Judge Jean-Louis Bruguière

After eight years of investigation, I recently completed the judicial inquiry concerning the attack on the UTA DC-10 and ordered the transmittal of the file on the inquiry with a view to the committal for trial of six Libyan nationals indicted in the course of the procedure, who will have to be tried in absentia.

The attack, which occurred on 19 September 1989 over Niger, resulted in the death of 170 people.

In the course of the judicial inquiry opened six days later by the public prosecutor in Paris, lengthy and careful investigations, conducted in particular in Africa, showed that Libyan nationals might be involved in this terrorist act. Four international arrest warrants were subsequently issued for Libyan nationals.

Following the issuance of these arrest warrants and the indictment by the judicial systems of the United States and the United Kingdom of two other Libyan nationals in connection with the attack on Pan Am flight 103 over Lockerbie in Scotland on 23 December 1988, the United Nations Security Council, at the request of France, the United Kingdom and the United States, adopted resolution 731 (1992) on 21 January 1992. In that resolution the Council referred explicitly to a letter from the French authorities of 20 December 1991 (A/46/825-S/23306) which demanded that the Libyan Arab Jamahiriya cooperate immediately, effectively and by all possible means, in the inquiry concerning the attack on the UTA DC-10.

The lack of any response by the Libyan authorities to these injunctions and to other demands made in the aforementioned resolution led the Security Council to adopt resolutions 748 (1992) and 883 (1993), by which it imposed sanctions against the Libyan Arab Jamahiriya.

The Libyan authorities did not demonstrate any genuine willingness to cooperate with French justice until 1996. Nevertheless, France has consistently demanded that the Libyan Arab Jamahiriya cooperate in the inquiry concerning the attack on the UTA DC-10.

In March 1996, Colonel Muammar Qaddafi, in a letter addressed to the President of the French Republic which has been included in the file, undertook to respond to the French demands formulated in the letter of 20 December 1991 (A/46/825-S/23306) (to which he referred), authorized the French judge to continue his inquiry freely in Libya, and guaranteed that he would be accorded every facility and assistance during the necessary duration of his mission.

On 28 May 1996, Judge Mursi, reiterating the undertaking by Colonel Qaddafi, sent me a letter inviting me to continue my investigations in Libya, on

the basis of the French demands contained in the letter of 20 December 1991 (A/46/825-S/23306).

After issuing an international letter of request on 14 June 1996, I travelled with investigators to Tripoli, where I stayed from 5 to 16 July 1996 and was well received by the competent judicial authorities.

During this mission, despite many difficulties which have now for the most part been resolved, I was able to participate, in satisfactory conditions, in the execution of the letter of request. I was able to hear many witnesses, collect material and other evidence and obtain documents useful for the purpose of revealing the truth.

This judicial cooperation satisfied most of the French demands, although some of them have still not been met. It enabled me to make significant progress by giving me the opportunity to issue two additional arrest warrants for Libyan nationals and to complete the file on the inquiry. It has opened the way, as permitted under French law, to the trial in absentia of the six suspects.

However, French justice and the families of the victims were entitled to expect an adversary proceeding, the only type of trial that can fully satisfy the legitimate expectations of the claimants for criminal indemnification.

When the time comes, the Libyan authorities should naturally assume all the consequences that would result from a coercive judgement against their nationals.

Now that this judicial inquiry has come to an end, eight years after the attack, I feel it would be useful to convey to you my appreciation of the way in which Libya cooperated with French justice in this inquiry.

(Signed) Jean-Louis BRUGUIÈRE